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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/735,177	12/12/2003	Francesco Gropallo	206,383	1657

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EXAMINER

EDMONDSON, LYNNE RENEE

ART UNIT	PAPER NUMBER
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1725

DATE MAILED: 09/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/735,177

Applicant(s)

GROPALLO, FRANCESCO

Examiner

Lynne Edmondson

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 6-15 and 18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 13-15 is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-8, 10, 12, 18 and 19 is/are rejected.
- 7) ☒ Claim(s) 9 and 11 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3, 6-8 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Martucci et al. (USPN 3496629).

Martucci teaches a brazing process to join two metal at least one part being tubular (10), the other a tubular manifold (14), by positioning a preformed brazing filler metal (12) in a groove in one of the parts, aligning the parts such that the end of the tube is inserted a predetermined distance and heating the parts in a furnace (figures 1-3 and col 1 line 61 – col 2 line 27) to form a radiator (heat exchanger, col 1 lines 25-31).

3. Claim 19 is rejected under 35 U.S.C. 102(b) as being anticipated by Porte et al. (USPN 3310869).

Porte teaches a stopper (caps, 23, 24) with a groove for receiving filler wire (figure 1).

4. Claim 19 is rejected under 35 U.S.C. 102(b) as being anticipated Ironside (USPN 1662068).

Ironsides teaches a stopper with a groove capable of receiving filler wire (figure 4 and col 1 lines 33-51).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Martucci et al. (USPN 3496629).

Martucci teaches a brazing process to join two metal at least one part being tubular (10), the other a tubular manifold (14), by positioning a preformed brazing filler metal (12) in a groove in one of the parts, aligning the parts such that the end of the tube is inserted a predetermined distance and heating the parts in a furnace (figures 1-3 and col 1 line 61 – col 2 line 27). However there is no disclosure of the distance into the hole.

It would have been obvious to one of ordinary skill in the art at the time of the invention that the depth to which the tube is inserted into the hole is a design factor based on tube size, finished article size and is typically chosen such that a minimal amount of tubing is inserted while maintaining a strong, reliable joint.

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7. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Martucci et al. (USPN 3496629) in view of Conn et al. (USPN 5360158).

Martucci teaches a brazing process to join two metal at least one part being tubular (10), the other a tubular manifold (14), by positioning a preformed brazing filler metal (12) in a groove in one of the parts, aligning the parts such that the end of the tube is inserted a predetermined distance and heating the parts in a furnace (figures 1-3 and col 1 line 61 – col 2 line 27). However there is no disclosure of the preform formed from a folded wire.

Conn teaches a brazing process to join two metal parts at least one part being tubular by positioning a coated brazing ring formed of shaped wire (26) on one of the parts (12), aligning the parts and heating the parts in a furnace (figures 1 and 4, col 1 lines 10-15, col 2 lines 10-26, col 7 lines 33-56, col 8 lines 27-36 and col 10 line 51 – col 11 line 5).

It would have been obvious to one of ordinary skill in the art at the time of the invention that a folded wire is an obvious variation of a ring filler.

8. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Martucci et al. (USPN 3496629) in view of Halvorsen (USPN 3871063).

Martucci teaches a brazing process to join two metal at least one part being tubular (10), the other a tubular manifold (14), by positioning a preformed brazing filler metal (12) in a groove in one of the parts, aligning the parts such that the end of the

tube is inserted a predetermined distance and heating the parts in a furnace (figures 1-3 and col 1 line 61 – col 2 line 27). However there is no disclosure of a tapered tube.

Halvorsen teaches a brazing process to join two metal parts at least one part being a tapered tubular (18) by positioning a braze material (27) on one of the parts, aligning the parts and heating the parts in a furnace (figures 1 and 3, and col 3 line 52 – col 4 line 34).

It would have been obvious to one of ordinary skill in the art at the time of the invention that the process would be the same for a variety of tube shapes including but not limited to flat and tapered.

Response to Arguments

9. Applicant's prior argument filed 1/6/06 that Porte does not teach the invention as claimed; particularly filler placed inside the tubular metal part is noted. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., filler placed inside the tubular metal par) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Therefore the 102 rejection of claim 19 as anticipated by Porte is restated.

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10. Regarding applicant's argument that Martucci does not teach formation of an internal junction, see figure 3 where the braze has filled the interior of the wall between the wall (16) and the tube (10).

11. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., brazing material passing through the whole length of the whole or drawing filler metal by capillary action into the space) are not recited in the rejected claim(s).

Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Therefore the 102 rejection of claims 1-3, 6-8 and 18 as anticipated by Martucci stands.

12. Regarding applicant's argument that there must be some suggestion to combine and that when combined references must teach all claim limitations, it is noted that Martucci has been shown to meet the base claim limitations (filler metal positioned inside the tubular metal part) and does not require Conn or Halvorsen to meet this limitation.

13. Therefore the 103 rejection of claim 12 as obvious over Martucci stands.

14. Therefore the 103 rejection of claim 4 as obvious over Martucci in view of Conn stands.

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15. Therefore the 103 rejection of claim 10 as obvious over Martucci in view of Halvorsen stands.

Allowable Subject Matter

16. Claims 9 and 11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

17. Claims 13-15 are allowed.

Conclusion

18. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Chiba et al. (USPN 5540278), Takeshita et al. (USPN 6213379 B1, stopper with groove), Schenker et al. (USPN 5566853, stopper with groove), Rudner et al. (USPN 2901529, stopper with groove) and Parker et al. (USPN 4628294, stopper with groove).

19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lynne Edmondson whose telephone number is (571) 272-1172. The examiner can normally be reached on Monday through Thursday from 6:30 a.m. to 5 p.m.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Ryan can be reached on (571) 272-1292. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Lynne Edmondson
Primary Examiner
Art Unit 1725

LE
9/11/02

LRE